

A.G. Contract No.: KR05-0197TRN
ECS File No.: JPA 05-014
Project No.: S-089-B-202
Section: Jct 89A-Chino Valley
Project: SR 89 Highway Study
TRACS No.: H6701 01L
Budget Source Item No.: 70105

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
YAVAPAI COUNTY

THIS AGREEMENT is entered into this date May 31, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and YAVAPAI COUNTY, acting by and through its BOARD OF SUPERVISORS (the "County").

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes § 11-251 and § 11-951 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the County.

3. The State and the County desire to participate an Enhanced Project Assessment on State Route (SR) 89 from the Junction (JCT) of SR 89A to Center Street in Chino Valley, hereinafter referred to as the "Project. The State will remit to the County an amount not to exceed \$250,000.00 for their portion of the cost of the Project and the County will select and hire a Professional Transportation Consultant to prepare the Enhanced Project Assessment.

4. The segment of SR 89 between SR 89A (Pioneer Parkway) and Chino Valley currently experience operational issues due to congestion. Ingress and egress to SR 89 in Chino Valley is difficult during peak hours and is expected to get worse as regional growth continues. A Study is needed to address required improvements from Pioneer Parkway to Center Street on SR 89. The approximately 8.0 miles of two lane SR 89 between the new SR 89A and Center Street carries over 20,000 vehicles per day and needs additional capacity. The Study will need to consider appropriate access control strategies, as all parties have expressed a desire for a reasonable high level of access control.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27536
Filed with the Secretary of State
Date Filed: 05/31/05

Janice K. Brewer
Secretary of State

By: Darryl D. Haenevald

II. SCOPE OF WORK

1. The State shall:

a. Approve the professional Transportation Consultant, experienced in preparing study documents selected by the County

b. Review the Project progress reports and submittals and provide comments to the County as appropriate. Review and approve the final report prior to the County's final payment to the consultant.

c. Upon execution of this Agreement and within thirty-days (30) upon receipt and approval of an invoice from the County, remit to the County an amount not to exceed \$250,000.00 for costs associated with the Project.

2. The County shall:

a. Select and hire a professional Transportation Consultant, pre-qualified by the State and experienced in preparing study documents to accomplish the Project. Strictly comply with all State and Federal procurement laws, rules and procedures.

b. Be the lead agency for the Project and prepare to State Standards an Enhanced Project Assessment. The project limits are from approximately Milepost (MP) 319.2 near the Airport Connector/SR89 intersection to MP 327.2, where the existing five-lane section begins just south of Center Street. The Enhanced Project Assessment follows the ADOT Project Assessment (PA) process, but involves preparation of supplemental design documents normally not prepared in the PA stage. The additional documents all for a more detailed and accurate PA and provide information needed for final design (collectively the "Study"). The additional documents include, but are not limited to: Environmental Overview; Traffic Study; Preliminary Geotechnical and Pavement Report; Initial Drainage Report; Design Level Mapping and Survey Control; Construction cost estimates and Right of Way requirements

The PA will consider several concepts for widening SR 89, including ADOT IS1 (four-lane with raised median), UB 5 (lane curbed), IS2 (five-lane uncurbed), IS3 (four-lane divided) typical sections. The Study will evaluate the typical section relative to compatibility with appropriate access control concepts. Consistent with prior studies, access control features such as driveway consolidation, frontage roads, traffic signals, interchanges and raised medians will be evaluated and appropriate treatments recommended. In addition, roundabouts will be evaluated at major intersections in lieu of traffic signals.

c. Provide to the State timely copies of Project progress reports and submittals, and insure the incorporation of State review comments. Provide to the State a copy of the final report, and obtain the State's approval prior to making final payment to the consultant. Accept the final report on behalf of the parties hereto.

d. Be responsible for all Project costs over and above the State's maximum share of \$250,000.00 and for any consultant claims for extra compensation, attributable to the County.

e. Upon execution of this Agreement, invoice the State for an amount not to exceed \$250,000.00 for the State's portion of cost of the Project.

III. MISCELLANEOUS PROVISIONS

1. Each party (as "Indemnitor") agrees to indemnify, defend, save and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses including reasonable attorneys' fees, hereinafter collectively referred to as ("claims"), arising out of bodily injury of any person, including death or property damage, but only to the extent that such claims which result in vicarious/derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers.

2. The terms conditions and provisions of this Agreement shall remain in full force and effect until completion of said Project and reimbursements. This Agreement may be cancelled at any time prior to the advertisement of a Project consultant contract, upon thirty-days (30) written notice to either party.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

Yavapai County
Attn: Public Works Department
1100 Commerce Drive
Prescott, AZ 86305
(928) 771-3100

9. In accordance with Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

YAVAPAI COUNTY


STATE OF ARIZONA

Department of Transportation

By


CAROL SPRINGER, Chairperson
Board of Supervisors

By


DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST:

By

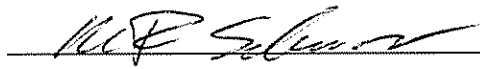

BEV STADDON
Clerk of the Board

JPA 05-014

APPROVAL OF YAVAPAI COUNTY

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the YAVAPAI COUNTY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the COUNTY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement

DATED this 25th day of April, 2005.

A handwritten signature in black ink, appearing to read "M. F. Selman", is written over a horizontal line.

County Attorney

**CERTIFIED COPY OF ENTRY IN OFFICIAL MINUTES
OF THE YAVAPAI COUNTY BOARD OF SUPERVISORS**

YAVAPAI COUNTY)
) ss.
ARIZONA)

Bev Staddon, having been first duly sworn, deposes and says:

I am the duly appointed, qualified and acting Clerk of the Yavapai County Board of Supervisors and in such capacity under the provisions of ARS §11-241 am charged with the responsibilities, among others, of recording all proceedings of the Board and maintaining custody of such records of the Board as are required by law to be maintained. Among the records of which I have custody is the official minute book of the Board of Supervisors which under the provisions of ARS §11-217 is required to be made and kept.

Set forth below is a copy of an entry in the aforesaid minute book of which, as aforesaid, I am the officer having the legal custody. This is my certificate under the provisions of Rule 44(A), Rules of Civil Procedure, and the Uniform Business Records Act, that the said copy is a true and correct copy thereof, to which I attest by my signature subscribed hereunto:

Date of meeting of which the minutes are a record: May 2, 2005.

The entry in the said minutes:

- A7. Consider approval of Intergovernmental Agreement JPA 05-014 with the State of Arizona for joint participation in an Enhanced Project Assessment Study for the segment of State Route 89 between State Route 89A and Center Street in Chino Valley. Regional Road (half-cent sales tax) project. Richard Straub, Public Works Director. Approved by unanimous vote. Motion by Supervisor Thurman, second by Supervisor Davis. No comments from the public.

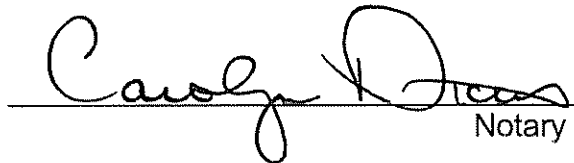
Mr. Straub said that last year it had been necessary to begin preliminary engineering on this stretch of SR89, and that this intergovernmental agreement would provide for the County to be reimbursed approximately \$250,000 for that work. Supervisor Davis asked what role the Central Yavapai Metropolitan Planning Organization would plan in this matter. Mr. Straub said that CYMPO was not playing a significant role and that it was not providing any funding for this project because of urgent needs on SR 69.



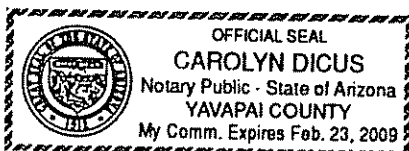
Bev Staddon, Clerk

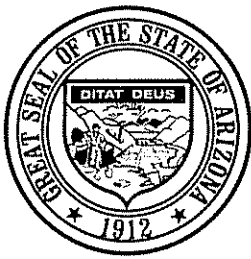
SUBSCRIBED AND SWORN to before me May 16, 2005.

My Commission Expires:



Notary Public





**ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION**

MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

Direct: (602) 542-8859
Fax: (602) 542-3646

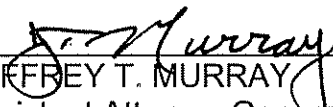
**INTERGOVERNMENTAL AGREEMENT
DETERMINATION**

A.G. Contract No. KR05-0197TRN (**JPA05-014**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED May 24th, 2005.

TERRY GODDARD
Attorney General


JEFFREY T. MURRAY
Assistant Attorney General
Transportation Section

JTM:dgr
Attachment
906537